

JULIA C. DUDLEY, CLERK
BY: *H. Wheeler*
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

DEANDRE HARRIS,
Plaintiff,

v.

JASON KESSLER, RICHARD SPENCER
VANGUARD AMERICA, ANDREW
ANGLIN MOONBASE HOLDINGS, LLC,
ROBERT "AZZMADOR" RAY,
NATHAN DAMIGO, ELLIOT KLINE
AKA ELI MOSLEY, IDENTITY EVROPA,
MATTHEW HEIMBACH, MATTHEW
PARROT AKA DAVID MATTHEW
PARROTT, TRADITIONALIST WORKERS
PARTY, MICHAEL HILL, MICHAEL
TUBBS, LEAGUE OF THE SOUTH,
JEFF SCHOEP, NATIONAL SOCIALIST
MOVEMENT, NATIONALIST FRONT,
AUGUSTUS SOL INVICTUS,
FRATERNAL
ORDER OF THE ALT-KNIGHTS,
MICHAEL "ENOCH" PEINOVICH,
LOYAL WHITE KNIGHTS OF THE
KU KLUX KLAN,
AND EAST COAST KNIGHTS OF THE
KU KLUX KLAN AKA EAST COAST
KNIGHTS OF THE TRUE INVISIBLE
EMPIRE, NATIONAL POLICY INSTITUTE,
THE PROUD BOYS, COUNCIL OF
CONSERVATIVE CITIZENS, AMERICAN
RENAISSANCE, THE RED ELEPHANTS,
AMERICAN FREEDOM KEEPERS,
ALTRIGHT.COM,
DANIEL P. BORDEN,
ALEX MICHAEL RAMOS,
JACOB SCOTT GOODWIN,
TYLER WATKINS DAVIS,
JOHN DOE 1, JOHN DOE 2
Defendants.

CIVIL ACTION NO.

3:19CV00046

JURY TRIAL

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Plaintiff, DeAndre Harris, by his undersigned attorney alleges upon knowledge as to himself and his own actions and upon information and belief as to all the other matters, as follows:

I.

NATURE OF THE ACTION

1. This is an action brought by the Plaintiff against the Defendants for violation of Plaintiff's individual rights to be free from assault and battery, and, consequently, in violation of his civil rights pursuant to 42 U.S.C. §§ 1985(3) and 1986 when Defendants engaged in a conspiracy to discriminate and attack Plaintiff on account of his race.
2. For these civil rights violations, and other causes of action discussed herein, Plaintiff seeks answers and compensation for his damages.

II.

PARTIES

3. Plaintiff DeAndre Harris ("Harris") is an African American citizen of the United States and a resident of Charlottesville, Virginia. At the time of the assault, Harris was a 20-year-old instructional aide for a high school special education program.
4. Defendant Daniel P. Borden ("Borden"), upon information and belief, is a citizen of the United States and was a resident of Mason, Ohio when he decided to attend the "Unite the Right" rallies in Charlottesville, Virginia. Borden actively participated in the assault on Harris by using

a large, wooden plank to repeatedly assault Harris while Harris lay on the ground. Borden plead to felonious assault and was sentenced to 3 years and 10 months for his role in the assault on Harris.

5. Defendant Alex Michael Ramos (“Ramos”), upon information and belief, is a citizen of the United States and was a resident of Jackson, Georgia when he decided to attend the Unite the Right rallies in Charlottesville, Virginia. Ramos actively participated in the assault on Harris by striking him with his fist as Harris lay on the ground. Ramos was convicted by a Charlottesville jury for malicious wounding and sentenced to 6 years in prison for his role in the assault on Harris.

6. Defendant Jacob Scott Goodwin (“Goodwin”), upon information and belief, is a citizen of the United States and was a resident of Ward, Arkansas when he decided to attend the Unite the Right rallies in Charlottesville, Virginia. Goodwin actively participated in the assault on Harris and was convicted by a Charlottesville jury of malicious wounding. Goodwin was sentenced to 8 years in prison for his role in the assault on Harris.

7. Defendant Tyler Watkins Davis (“Davis”), upon information and belief, is a citizen of the United States and was a resident of Middleburg, Florida when he decided to attend the Unite the Right rallies in Charlottesville, Virginia. Davis actively participated in the assault on Harris by brutally striking Harris in the head with a tire thumper. Davis has entered a plea and will be sentenced in August for his role in the assault on Harris.

8. The true names of defendant John Doe 1 (“Doe 1”) and John Doe 2 (“Doe 2”) are unknown to Plaintiff, who therefore sues these defendants under such fictitious names. Plaintiff will seek leave to amend this Complaint to show the true names and capacities of these

defendants when they have been ascertained. Each of the fictitiously-named defendants are responsible in some manner for the assault, conduct and liabilities alleged herein.

9. Defendant Jason Kessler (“Kessler”), upon information and belief, is a citizen of the United States and was a resident of Charlottesville, Virginia at the time the Unite the Right rallies took place and when the assault on Harris occurred. Kessler is an avowed white supremacist, racist and neo-Nazi with a public history of supporting violence and intimidation in support of his racist vision for the country. Kessler organized the Unite the Right rallies that took place in Charlottesville, Virginia on August 11-12, 2017. The violence perpetuated at the Unite the Right rallies was part of Kessler’s vision for the rallies and caused Plaintiff’s injuries.

10. Defendant Richard Spencer (“Spencer”), upon information and belief, is a citizen of the United States and a resident of the Commonwealth of Virginia at the time the Unite the Right rallies took place and when the assault on Harris occurred. Spencer is an avowed white supremacist, racist and neo-Nazi, and together with Kessler, organized and conspired to incite violence at the Unite the Right rallies in Charlottesville, Virginia that took place on August 11-12, 2017. The violence perpetuated at the Unite the Right rallies was part of Spencer’s vision for the rallies and caused Plaintiff’s injuries.

11. Defendant Vanguard America is an unincorporated association pursuant to Virginia Code § 8.01-15. Members of Vanguard America voluntarily join for the common purpose of promoting white nationalism and believe that people with “white blood” have a special bond with “American soil.” It was formed in California in 2015 and is comprised of twelve chapters across the country. The group’s website states that to join the group, a person must be “of at least 80% white/European heritage.” Several of the above named defendants are believed to be members of

Defendant Vanguard America; wore their uniform and carried Vanguard America shields at the Unite the Right Event on August 12.

12. Defendant Andrew Anglin is a resident of Ohio, a neo-Nazi, and the founder of Daily Stormer—an organization that operates through a website that Anglin publishes. The Daily Stormer established “meet ups” and chat rooms that co-conspirators and attendees used throughout the August 11 and 12 weekend to coordinate their violence. The Daily Stormer released its own poster promoting the “rally” that read, “UNITE THE RIGHT/Join Azzmador and the Daily Stormer to end Jewish influence in America,” accompanied by a Nazi-like figure wielding a hammer, ready to smash a Jewish star. Although Anglin did not attend the rally himself because he is currently in hiding to evade service in connection with a separate lawsuit relating to events in Whitefish, Montana, Anglin orchestrated the movements of Daily Stormer followers and incited them to violence on a live feed that streamed contemporaneously with the events as they occurred on August 11 and 12 in Charlottesville.

13. Defendant Moonbase Holdings, LLC is an Ohio, for-profit, limited-limited-liability corporation registered by Defendant Anglin that operates the Daily Stormer’s website. Defendant Anglin has encouraged readers to financially support the Daily Stormer by sending donations using bitcoin, checks, and credit cards, noting that “it won’t say ‘Daily Stormer’ on your credit card bill, but will instead say ‘Moonbase Holdings.’”

14. Defendant Robert “Azzmador” Ray, a resident of Texas, is a neo-Nazi and a writer for Daily Stormer’s website. He has held himself out as a representative of Daily Stormer, and served as an agent of Daily Stormer in organizing the Unite the Right events. He is leader of the “Dallas Fort Worth Stormer Book Club,” which is one of many local Daily Stormer groups

across the country. Ray attended the “rally” himself and had a planning meeting with certain other Defendants in Charlottesville on August 11.

15. Defendant Nathan Damigo, a resident of California, is a white nationalist and the founder of a white supremacist organization, Defendant Identity Evropa. Defendant Damigo was arrested on April 15, 2017 for assaulting a woman at the “Battle for Berkerley” rally, which Damigo described as a test run for the “rallies” in Charlottesville. Defendant Spencer has stated that Damigo and his group, Identity Evropa, took the lead in organizing white supremacist participation among people from outside Charlottesville in connection with the events on August 11 and 12.

16. Defendant Eli Mosley, who is a resident of Pennsylvania, is a white supremacist and was the leader of Identity Evropa from August to November 2017. He is also a co-founder with Defendant Richard Spencer of Operation Homeland, a new organization that aims to take white nationalist activist “to the next level.” He has described himself as the “command soldier major of the ‘alt right’” and as the organizer of the Unite the Right “rally.” Moseley was one of the key figures who planned and led the events of August 11 and 12.

17. Defendant Identity Evropa is an unincorporated association pursuant to Virginia Code Sect. 8.01-15. Identity Evropa helped organize and promote the Unite the Right rally which occurred in Charlottesville on August 11-12, 2017; and conspired to and did incite violence in the City of Charlottesville on August 12, 2017.

18. Defendant Matthew Heimbach, a resident of Indiana, is the chairman of Defendant Traditionalist Worker Party (“TWP”).

19. Defendant Matthew Parrot, a resident of Indiana, is the co-founder of the Traditionalist Youth Network along with his stepson-in-law, defendant Heimbach.
20. Defendant Traditionalist Worker Party (“TWP”) is an unincorporated association pursuant to Virginia Code Sect. 8.01-15, and a national political party committee registered with the Federal Election Commission since 2015.
21. Defendant Micheal Hill, a resident of Alabama, is the co-founder and President of Defendant League of the South, a white nationalist organization.
22. Defendant Michael Tubbs, a resident of Florida, is the “Chief of Staff” of Defendant League of the South. Tubbs is captured on video from August 12 ordering League of the South to attack by yelling “charge!”
23. Defendant League of the South, a privately held company located in Alabama, is a white supremacist group that advocates Southern secession.
24. Defendant Jeff Schoep, a resident of Michigan, is the leader of Defendant NSM, the largest neo-Nazi coalition in the United States. Schoep participated actively in the events of August 11 and 12 and tweeted afterwards that, “It was an Honor to stand with U all in C’Ville this weekend. NSM, NF, TWP, LOS, VA, ECK, CHS, and the rest, true warriors!”
25. Defendant Nationalist Socialist Movement is an unincorporated association pursuant to Virginia law. Members of NSM voluntarily joined for the common purpose of promoting a “greater America.”
26. Defendant Nationalist Front is an unincorporated association pursuant to Virginia law, whose members voluntarily joined for the common purpose of promoting white nationalism and white supremacy.

27. Defendant Augustus Sol Invictus, formerly Austin Mitchell Gillespie, a resident of Florida, is a white nationalist, white supremacist and a member of Defendant Fraternal Order of Alt-Knights (“FOAK”), the “military wing” of The Proud Boys, a group described as a “‘pro-Western fraternal organization’ for men who ‘refuse to apologize for creating the modern world.’” He has said that a violent, second Civil War is necessary in order to preserve “Western civilization.”

28. Defendant Fraternal Order of the Alt-Knights is an unincorporated association pursuant to Virginia law and is self described as the “tactical defense e arm” of Proud Boys, formed to focus on “street activist, preparation, defense and confrontation.”

29. Defendant Michael “Enoch” Peinovich, a resident of New York, is the founder of the blog and website The Right Stuff and a co-host of the Daily Shoah podcast. Peinovich frequently appears at events alongside Defendant Spencer. Peinovich was featured on a promotional poster for the “rally.” On August 12, in the immediate aftermath of the car attack, Defendants Spencer and Peinovich spoke to their followers at McIntire Park.

30. Defendant Loyal White Knights of the Ku Klux Klan (“Loyal White Knights”) is an unincorporated association pursuant to Virginia law.

31. Defendant East Coast Knights of the True Invisible Empire is an unincorporated association pursuant to Virginia law.

32. Defendant The National Policy Institute, is a racist and violent organization that seeks to promote a White Supremacist state. The National Policy Institute helped organize and promote the Unite the Right rally which occurred in Charlottesville on August 11-12, 2017 and which

caused Plaintiffs' injuries; and conspired to and did incite violence in the City of Charlottesville on August 12, 2017.

33. Defendant The Proud Boys is a racist and violent organization which counts Jason Kessler among its members. In order to advance within the group, its members must violently attack counter-protesters. The Proud Boys have formed their own military division called the Fraternal Order of Alt-Knights and helped organize and promote the Unite the Right rally which occurred in Charlottesville on August 11-12, 2017 and which caused Plaintiffs' injuries; and conspired to and did incite violence in the City of Charlottesville on August 12, 2017.

34. Defendant The Council of Conservative Citizens is a racist and violent organization that seeks to promote a White Supremacist state. The Council of Conservative Citizens is based in Missouri and helped organize and promote the Unite the Right rally which occurred in Charlottesville on August 11-12, 2017 and which caused Plaintiffs' injuries; and conspired to and did incite violence in the City of Charlottesville on August 12, 2017.

35. Defendant American Renaissance is a racist and violent organization which produces a racist publication and hosts annual conferences. American Renaissance helped organize and promote the Unite the Right rally which occurred in Charlottesville on August 11-12, 2017; and conspired to and did incite violence in the City of Charlottesville on August 12, 2017.

36. Defendant The Red Elephants is a racist and violent Alt Right media platform. They promote a violent do it yourself division on their media platforms. The Red Elephants helped organize and promote the Unite the Right rally which occurred in Charlottesville on August 11-12, 2017; and conspired to and did incite violence in the City of Charlottesville on August 12, 2017.

37. Defendant The American Freedom Keepers is a racist and violent militia. The American Freedom Keepers helped organize and promote the Unite the Right rally which occurred in Charlottesville on August 11-12, 2017 and which caused Plaintiffs' injuries; and conspired to and did incite violence in the City of Charlottesville on August 12, 2017.

38. Defendant AltRight.com is a racist and violent organization which promotes its vision of hatred and white supremacy through its website. Altright.com helped organize and promote the Unite the Right rally which occurred in Charlottesville on August 11-12, 2017 and which caused Plaintiffs' injuries; and conspired to and did incite violence in the City of Charlottesville on August 12, 2017. Altright.com specifically stated "People will talk about Charlottesville as a turning point. There will be a before Charlottesville and an after Charlottesville. Will you stand up for your history, your race and your way of life?"

III.

JURISDICTION AND VENUE

39. Jurisdiction exists in this Court pursuant to 28 U.S.C. §§ 1331 and 1343, as well as under 42 U.S.C. §§ 1985 and 1986, to redress the deprivation of rights, privileges and immunities.

40. Venue is proper in this Court because the causes of action occurred within the Western District of Virginia, Charlottesville Division.

41. Supplemental jurisdiction of this Court to adjudicate claims arising under state law is invoked pursuant to 28 U.S.C. § 1367(a).

IV.

FACTS

42. The brutal assault on Harris took place amidst the Unite the Right rallies and demonstrations organized by Kessler, Spencer and other leading white supremacist and neo-Nazi individuals and organizations around the United States. This gathering of white supremacists in Charlottesville would represent the largest, most publicized and most violent assembly of white supremacists in recent memory.

43. Participants in these white supremacist rallies were represented by individuals from nearby state. Participants also represented approximately 50 different alt-right and white supremacist groups and organizations. The vision espoused by Kessler and Spencer involved uniting these various racist groups in an effort to intimidate and harass racial, ethnic and religious minorities and recent events involving the removal of Confederate statues in Charlottesville and around the United States.

44. In February 2017, the Charlottesville City Council voted to relocate a statue of Confederate General Robert E. Lee from Lee Park (now named Emancipation Park (“the Park”)). The City had plans to sell the statue and relocate it, prompting protest from those wanting to keep the statue and white supremacist groups across the United States.

45. In response to the renaming of the Park and the City’s plans for the statue, Spencer organized a rally and protest in Charlottesville in May 2017 that involved lit torches similar to the procession that would occur on the campus of the University of Virginia on August 11, 2017.

46. The Ku Klux Klan similarly organized a protest and rally in response to the City’s plans that occurred in July 2017.

47. Similar to Spencer, Jason Kessler opposed the Park's name change and the planned removal of the statue from the Park. In response, Kessler organized, planned and promoted the Unite the Right rally in the Park to protest the City's actions.

48. On May 30, 2017, Kessler applied for a permit to hold the rally at the Park planned for August 12, 2017. The application for the permit was in accordance with City policy requiring the issuance of a permit for free speech exercises on public property. The City granted Kessler's permit on June 13, 2017.

49. Five days before the planned rally at the Park, the City informed Kessler that it was revoking the permit to hold the rally at the Park. The City claimed that it would be unable to safely accommodate the thousands of individuals that would be anticipated to participate in the rally. Alternatively, the City offered Kessler a permit to demonstrate in McIntire Park instead, which was approximately one mile away from Emancipation Park. The City acknowledged that the use of law enforcement would be necessary to accommodate the rally, even if it were held at McIntire Park to ensure the public's safety.

50. The City also issued permits to counter-protestors who would march in Charlottesville to oppose the views being espoused by the white supremacists at the Unite the Right rally.

51. The City has prior knowledge of the potential for violence between the white supremacists and the counter-protestors. The City's own experience with racist rallies, including Spencer and the KKK's rallies earlier in 2017, provided the City with an opportunity to safely handle the large demonstrations that were likely to occur on August 12, 2017.

52. The CPD had the proper resources, experience and ability to deploy its officers in enforcing public safety at the Unite the Right rally and counter-protest. In fact, the City had

gained its most useful experience in this regard earlier in the year with Spencer and the KKK rally. Additionally, the CPD could call on surrounding law enforcement agencies, the Virginia State Police and the Virginia National Guard to protect the rights of participants and the public at large.

53. Chief Thomas explained at this August 7, 2017 press conference that the reason for revoking the permit and providing an alternative for Kessler was due to the burden posed by having the rally at the Park. Although Chief Thomas claimed the rally would be safer at McIntire Park, he did not assert that the City would be unable to accommodate Kessler's permit application as originally planned at Emancipation Park.

54. The City also announced that it planned to have a visible presence at the rally to ensure public safety, along with the Virginia State Police. The National Guard would also be available if and when needed. This was in response to reports that thousands of participants and counter-protestors would be present in Charlottesville.

55. After meeting with City leaders and refusing to accept the alternative location for the rally, Kessler, with the assistance of the ACLU, filed suit against the City claiming violation of his First and Fourteenth Amendment rights.

56. Kessler asserted in the lawsuit that the City routinely monitored crowds of up to 3,500 people within city limits and had issued permits at the Park for other rallies that had involved thousands of participants. The lawsuit sought to enjoin the City and allow Kessler to hold the Unite the Right rally at Emancipation Park.

57. Kessler was successful, and the Court issued a preliminary injunction ordering the City to allow the rally to proceed at the Park, just one day before the rally was scheduled to take place.

58. Chief Thomas of the CPD would be responsible for ensuring the safety of the public during the rally and counter-protest. As chief of the CPD, Chief Thomas was a policymaker with authority over operations and planning for the events on August 12, 2017. Chief Thomas was responsible for the law enforcement response to the rally and had final authority on how to handle the day's events. In addition to Chief Thomas, Colonel Flaherty and the City would still be responsible for the safety of participants and the public who would gather in the Park and surrounding areas on August 12.

59. Chief Thomas issued a written statement after August 12, 2017, acknowledging his decision-making and policymaker authority, writing that "While a unified command works together to make critical decisions, I oversaw the operation and was the final say."

60. In response to the Court preliminary injunction that would allow Kessler's rally to continue in the Park, Chief Thomas devised a new strategy on addressing the day's events. Chief Thomas enacted a special policy that was communicated to law enforcement officials and officers monitoring the day's events. Chief Thomas issued orders to "stand down" that would require CPD officers to refrain from interfering in any altercations or clashes between the white supremacists and counter-protestors unless commanded otherwise. Colonel Flaherty issued this same stand down order to State Troopers who would be present at the rally under his command.

61. On August 11, 2017, white supremacists and neo-Nazis marched through the University of Virginia campus with lit torches and chanting racist slogans. Although not sanctioned by the City or issued a permit for such demonstration, the City was on notice of the volatility of the planned rally that would take place the following day based on past experiences, media attention and the march through the university on August 11.

62. On August 12, 2017, Harris attended the counter-protest rally in opposition to the views being espoused by white supremacists and neo-Nazis marching in the Unite the Right rally. Harris intended to simply attend the counter-protest to show solidarity with those advocating for equality and love over racism and hate.

63. The Unite the Right rally quickly turned into a violent demonstration on the morning of August 12, 2017 as white supremacists and counter-protestors clashed near the Park and surrounding areas. Despite the several attacks taking place, all well-publicized and reported on social media and live TV, CPD and State Troopers refused to interfere and maintain the peace. Even the most brutal assaults incited by racial discrimination, such as the attack that would occur on Harris, went unacknowledged during the course of the rally.

64. Just before 11:30 AM on August 12, the City declared the rally an unlawful assembly and Governor McAuliffe declared a state of emergency. Despite knowing the risks posed by the rally and despite seeing first-hand the violence that was occurring at the rally, Chief Thomas and Colonel Flaherty failed to keep the peace. Police left the Park to retrieve riot gear after the State of Emergency was declared, allowing for further violent clashes between white supremacists and counter-protestors outside police presence.

65. When law enforcement officers returned with riot gear, they began to clear the Park of white supremacists. This process pushed the white supremacists directly into the area being occupied by counter-protestors. The proximity and mingling of the two groups caused more violent attacks to take place.

66. As Harris and other counter-protestors began to leave the demonstration, Harris witnessed a friend being attacked by a white supremacist wielding a flagpole. Harris feared that

his friend was being speared with the flagpole. In response, Harris threw a flashlight at the white supremacist attacker in an effort to push him off of his friend.

67. After the attack on his friend, Harris fled into a crowded parking garage in fear for his safety. Harris was quickly chased by several white supremacists intending to brutally assault him as white supremacists and counter-protestors scattered everywhere.

68. The attack on Harris, captured on video and viewed online millions of times, shows a group of at least six white supremacists perpetuate a brutal assault on Harris incited by Harris' status as a black male protesting their racism.

69. Goodwin wore a military-style tactical helmet and eye goggles to cover his face as he repeatedly kicked and assaulted Harris. Harris remained on the ground throughout the course of the assault.

70. Davis slammed a tire thumper on Harris' head during the assault that would result in severe trauma and a large gash on Harris' head.

71. While Harris lay on the ground, continuously being assaulted and pummeled, Ramos struck Harris with his fist at least one time.

72. Borden approached Harris in the parking garage wearing a helmet with the words "Commie Killer" printed on the front of the helmet. As Borden chased Harris into the garage, he repeatedly slammed a large wooden plank onto Harris' person in a vicious assault.

73. Doe 1, who has yet to be identified, also participated in the assault on Harris. Doe 1 can be seen wearing sunglasses in the parking garage as he actively participates in the brutal assault. Doe 1 was carrying a flagpole and shield and struck Harris with the flagpole at least two times during the assault.

74. Doe 2, who has yet to be identified, also participated in the assault on Harris. Doe 2 was also carrying a flagpole but can be distinguished by the red beard on his person when the assault on Harris took place. As Harris attempted to scramble and flee for his life during the assault, Doe 2 struck Harris with the flagpole at least once.

75. During the vicious assault on Harris by the white supremacists, his attackers yelled racial slurs as they pummeled him with fists, legs and weapons.

76. Harris suffered several physical injuries as a result of the assault, including a spinal injury, broken wrist, chipped tooth, concussion, head wound requiring 10 stitches and other internal injuries.

77. Following the attacks on Harris, a social media campaign ensued to find the attackers and bring them to justice. The campaign, in conjunction with law enforcement officials, was successful in identifying four of the six attackers that can be seen on video. Two of the attackers have yet to be identified.

78. In October 2017, Harris was charged with unlawful wounding based on the incident when Harris feared that his friend was about to be speared with a flagpole by a white supremacist. In March 2018, Harris was acquitted of the charge.

79. Borden, Ramos, Goodwin and Davis have all either been found guilty or have taken a plea for their role in the assault on Harris. Each of the four identified attackers, aside from Davis, have been sentenced to prison for the assault on Harris. Davis is expected to be sentenced in August 2019.

V.

CAUSES OF ACTION

A. Cause of Action against all captioned defendants under 42 U.S.C. § 1985(3).

80. Plaintiff realleges each and every preceding paragraph of this Complaint and incorporates each paragraph herein by reference.

81. Defendants coordinated and executed a common plan to engage in violence and intimidation during the Unite the Right rally in Charlottesville. Kessler and Spencer were aware of the risks posed by assembling such a large rally of hate and intended for the rally to be a clash between white supremacists and counter-protestors.

82. A conspiracy to violate Harris's rights, and the rights of other black and Jewish people and counter-protestors, took place in Charlottesville. In furtherance of this conspiracy, Defendants engaged in campaigns of violence, threats and intimidation at the Park and its outskirts. This conspiracy involved the attack on Harris because he was black and was designed to intimidate and harass Harris and those similarly situated.

83. The assault and illegal acts described in this Complaint were undertaken by Defendants as overt acts pursuant to an unlawful conspiracy and designed to intimidate and discriminate against black, Jewish and nonwhite individuals. This discrimination was designed to prevent Harris, because of his race, from enjoying equal protection of the laws and his right to equal enjoyment of the privileges and immunities as a citizen of the United States participating in a lawful counter-protest.

84. As a result of the conspiracy and assault on Harris that took place, Harris has suffered serious injuries, including physical injury and severe emotional distress.

B. Cause of Action against all named defendants under 42 U.S.C. § 1986.

85. Plaintiff realleges each and every preceding paragraph of this Complaint and incorporates each paragraph herein by reference.

86. Each of the defendants, as organizers or participants in the conspiracy, had the power to stop the conspiracy and to stop the assault that would take place on Harris.

87. Borden, Ramos, Goodwin, Davis, Doe 1 and Doe 2 each directly participated in the assault on Harris because he was black and protesting their white supremacy. Each individual had the opportunity to stop the assault on Harris but failed to do so. On the contrary, each individual actively participated by either striking Harris with fists, legs or weapons.

88. Kessler and Spencer, as organizers of the rally and of the messages that would be pushed at the rally, intended to incite hate through the rally. Kessler and Spencer engaged and contributed to the anti-civil rights conspiracy against Harris by failing to take any steps to reasonably prevent or stop the violent acts that would take place on August 12, 2017.

89. The failure of these defendants to take any steps to aid in preventing the violent actions that occurred at the rally, as described above, violated 42 U.S.C. § 1986.

90. As a result of the conspiracy and assault on Harris that took place, Harris has suffered serious injuries, including physical injury and severe emotional distress.

**C. Cause of Action against Borden, Ramos, Goodwin, Davis, Doe 1 and Doe 2 for
Assault and Battery against Plaintiff.**

91. Plaintiff realleges each and every preceding paragraph of this Complaint and incorporates each paragraph herein by reference.

92. On August 12, 2017, Borden, Ramos, Goodwin, Davis, Doe 1 and Doe 2 each actively participated in a brutal assault on Harris in a parking garage while Harris lay struggling on the floor.

93. The assault on Harris, detailed above, involved fists, kicking, punching and weapons, such as a tire thumper, flagpole and wooden plank. These instruments of the assault were used to inflict physical injury on Harris because he was black and in response to his protests.

94. These intentional, unlawful and harmful attacks by defendants placed Harris in apprehension of harmful and/or offensive bodily contact and caused Harris to suffer a harmful and offensive assault on his person that was not justified or excused in any manner.

95. As a result of these defendants' acts and/or omissions described above, Harris suffered several physical injuries, including a spinal injury, broken wrist, chipped tooth, concussion, head wound requiring 10 stitches and other internal injuries.

96. Defendants each committed the aforementioned acts and omissions knowingly, willfully, maliciously and with the expressed intent to harm Harris and conscious or reckless disregard for the harm that resulted from the assault. By reason thereof, Plaintiff seeks punitive and exemplary damages from defendants, in an amount according to proof at trial.

D. Cause of Action all captioned defendants for Intentional Infliction of Emotional Distress.

97. Plaintiff realleges each and every preceding paragraph of this Complaint and incorporates each paragraph herein by reference.

98. Each of the defendants intentionally participated in the brutal assault on Harris knowing the injuries that would result and the physical and emotional trauma that would accompany their violent acts.

99. As a result of defendants' outrageous and extreme conduct during the assault on Harris, Plaintiff has been injured and has suffered severe emotional distress that no reasonable person could be expected to endure.

E. Cause of Action against all captioned defendants for Violation of Virginia Code § 8.01-42.1 for Racial, Religious, or Ethnic Harassment.

100. Plaintiff realleges each and every preceding paragraph of this Complaint and incorporates each paragraph herein by reference.

101. Virginia Code 8.01-42.1 creates a civil cause of action for any person who is subjected to the following if motivated by racial, religious, or ethnic animosity: (1) acts of intimidation or harassment; (2) violence directed at his or her person; or (3) vandalism directed against his or her real or personal property.

102. Harris was subjected to acts of intimidation, harassment and violence directed at his person when defendants either actively participated in his assault or planned the rally with the intent to create a hate-filled environment where such an assault would be reasonably likely to occur and did occur against Harris.

103. This assault against Harris occurred and was motivated by the fact that Harris was black.

104. As a result of the assault, Harris has suffered serious injuries, including physical injury and severe emotional distress.

F. Cause of Action against all captioned defendants for Civil Aiding and Abetting Assault, Battery and Intentional Infliction of Emotional Distress.

105. Plaintiff realleges each and every preceding paragraph of this Complaint and incorporates each paragraph herein by reference.

106. At all material times, Defendants knew that its actions of inciting, soliciting and encouraging violence at the rally in Charlottesville, Virginia would result in rallygoers, members of white supremacy, white nationalist and anti-fascist organizations, to violently and unlawfully attack citizens and counter-protesters.

107. At all material times, Defendants provided rallygoers with material support and assistance to violently attack citizens and counter-protesters.

108. Defendants acted with extreme recklessness in assisting Borden, Ramos, Goodwin, Davis, Doe 1 and Doe 2 in their effort to commit violence for the purpose of furthering the shared conspiratorial goal of their organizations.

109. Defendants knew or should have known that the reasonably foreseeable outcome of inciting violence and providing material assistance to rallygoers, including those that attacked Harris, was an attack upon citizens and counter-protesters.

110. Defendants knew or should have known that its incitement of violence and material assistance would cause members of white supremacy, white nationalist and anti-fascist organizations to commit assault, battery and intentional infliction of emotional distress.

111. Defendants aided and abetted, intentionally facilitated and/or reckless disregarded the planning, preparation and/or execution of the attack upon Plaintiff by providing organized and

systematic support to Borden, Ramos, Goodwin, Davis, Doe 1 and Doe 2 and their white supremacist, terrorist organizations.

112. Defendants actions in encouraging, promoting and inciting violence and providing material support resulted in the attack upon Plaintiff.

113. Plaintiff suffered serious physical and emotional injuries when Defendants assaulted him with their fists, legs and weapons, with the intent to cause serious injury and physical harm.

114. As joint venturers, Defendants are vicariously liable to Plaintiff for the actions of Borden, Ramos, Goodwin, Davis, Doe 1 and Doe 2 as each of the parties were acting in pursuit of the common criminal goal of instilling fear in the public and obtaining a reversal of the City's decision to remove the Robert E. Lee statue.

VI.

DAMAGES

115. Plaintiff realleges each and every preceding paragraph of this Complaint and incorporates each paragraph herein by reference.

116. As a direct and proximate result of Defendants' acts and/or omissions alleged herein, Plaintiff DeAndre Harris suffered:

- a. Actual damages;
- b. Punitive and exemplary damages against Borden, Ramos, Goodwin, Davis, Doe 1, Doe 2, Kessler and Spencer in an amount sufficient to deter and to make an example of the defendants;
- c. Pain and suffering;
- d. Mental anguish and emotional distress suffered by Plaintiff;

- e. Medical expenses;
- f. Pre- and post-judgment interest;
- g. Attorney's fees and costs of suit; and
- h. Such other and further relief as this Honorable Court deems just and proper.

VII.

COSTS AND ATTORNEY FEES

117. Plaintiff realleges each and every preceding paragraph of this Complaint and incorporates each paragraph herein by reference.

118. Plaintiff is entitled to an award of attorney fees and costs under 42 U.S.C.A. § 1988(b). As such, Plaintiff requests the Court to award costs and attorney's fees incurred in Plaintiff's prosecution of this litigation.

VIII.

CONDITIONS PRECEDENT

119. Plaintiff reserves his rights to plead and prove the damages to which he is entitled to at the time of trial. All conditions to Plaintiff's recovery have been performed or have occurred.

IX.

TRIAL BY JURY

120. Plaintiff has paid a jury fee and demands a trial by jury.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendants be cited to appear and answer herein; that upon final trial hereof Plaintiff has and recovers judgment from Defendants; actual damages, exemplary damages, pre-judgment interest at the legal rate; interest

on said judgment at the legal rate; costs of court; and such other and further relief, both general and special, at law and in equity, to which Plaintiff may show himself justly entitled.

Respectfully submitted,

/s/ Stacy Lee Merritt

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